

## Department of Justice

## § 68.36

any time, inquire as to the qualifications or ability of any non-attorney to render assistance in proceedings before the Administrative Law Judge.

(iii) *Denial of authority to appear.* Except as provided in paragraph (c)(3)(iv) of this section, the Administrative Law Judge may enter an order denying the privilege of appearing to any individual who the Judge finds does not possess the requisite qualifications to represent others; is lacking in character or integrity; has engaged in unethical or improper professional conduct; or has engaged in an act involving moral turpitude.

(iv) *Exception.* Any individual may represent him or herself or any corporation, partnership or unincorporated association of which that individual is a partner or general officer in proceedings before the Administrative Law Judge without prior approval of the Administrative Law Judge and without filing the written application required by this paragraph. Such individuals must, however, file a notice of appearance in the manner set forth in paragraph (e) of this section.

(d) *Representation for the Department of Justice.* The Department of Justice may be represented by the appropriate counsel in these proceedings.

(e) *Proof of authority.* Any individual acting in a representative capacity in any adjudicative proceeding may be required by the Administrative Law Judge to show his or her authority to act in such capacity. Representation of a respondent shall be at no expense to the Government.

(f) *Notice of appearance.* Except for a government attorney filing a complaint pursuant to section 274A, 274B, or 274C of the INA, each attorney shall file a notice of appearance. Such notice shall indicate the name of the case or controversy, the case number if assigned, and the party on whose behalf the appearance is made. The notice of appearance shall be signed by the attorney, and shall be accompanied by a certification indicating that such notice was served on all parties of record. A request for a hearing signed by an attorney and filed with the Immigration and Naturalization Service pursuant to section 274A(e)(3)(A) or 274C(d)(2)(A) of the INA, and containing the same in-

formation as required by this section, shall be considered a notice of appearance on behalf of the respondent for whom the request was made.

(g) *Withdrawal or substitution of a representative.* Withdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion. The Administrative Law Judge shall enter an order granting or denying such motion for withdrawal or substitution.

[Order No. 2203-99, 64 FR 7077, Feb. 12, 1999, as amended by Order No. 2255-99, 64 FR 49660, Sept. 14, 1999]

### § 68.34 Legal assistance.

The Office of the Chief Administrative Hearing Officer does not have authority to appoint counsel.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

### § 68.35 Standards of conduct.

(a) All persons appearing in proceedings before an Administrative Law Judge are expected to act with integrity, and in an ethical manner.

(b) The Administrative Law Judge may exclude from proceedings parties, witnesses, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against ex parte communications. The Administrative Law Judge shall state in the record the cause for barring an attorney or other individual from participation in a particular proceeding. The Administrative Law Judge may suspend the proceeding for a reasonable time for the purpose of enabling a party to obtain another attorney or representative.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

### § 68.36 Ex parte communications.

(a) *General.* Except for other employees of the Executive Office for Immigration Review, the Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. Communications